

# STATE OF NEW YORK

9409--A

## IN SENATE

May 25, 2022

Introduced by Sens. SALAZAR, JACKSON, KRUEGER, RIVERA, SEPULVEDA -- (at request of the NYC Housing Authority) -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development -- committee discharged and said bill committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public housing law and the administrative code of the city of New York, in relation to establishing the New York city public housing preservation trust for properties owned or operated by the New York city housing authority and providing for the issuance of certain bonds, notes or other obligations of the New York city housing development corporation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public housing law is amended by adding a new article 15 to read as follows:

### ARTICLE XV

#### NEW YORK CITY PUBLIC HOUSING PRESERVATION TRUST

##### Section 625. Short title.

626. Legislative findings.

627. Definitions.

628. New York city public housing preservation trust.

629. Powers and duties of the trust.

630. Transfer of property.

631. Resident protections and opportunities.

632. Compliance with codes.

633. Contracts of the trust.

634. Alternative project delivery contracts.

635. Additional authority.

636. Additional requirements for alternative project delivery contracts.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1       637. Borrowing by the trust and for its benefit; effects of  
2       certain defaults.  
3       638. Resources of the trust.  
4       639. Legal investment and deposit.  
5       640. Tax exemption and tax contract by the state.  
6       641. Actions against the trust.  
7       642. Civil service and pension system membership.  
8       643. Collective negotiation.  
9       644. Application of state and local human rights laws.  
10       645. Limited liability.  
11       646. Audit and annual reports.  
12       647. Jurisdiction over trust.  
13       648. Effect of inconsistent provisions.  
14       649. Severability.

15       § 625. Short title. This article shall be known and may be cited as  
16       the "New York city public housing preservation trust act".

17       § 626. Legislative findings. The legislature hereby finds and declares  
18       that significant capital investment is required to design, develop,  
19       construct, reconstruct, improve, modernize, rehabilitate, and repair the  
20       aging buildings owned or operated by the New York city housing authority  
21       which are deteriorating due to decades of diminishing capital invest-  
22       ment. Restrictions relating to the New York city housing authority's  
23       construction process, and its inability to utilize innovative project  
24       delivery methods, have exacerbated its capital needs. A new public enti-  
25       ty with greater flexibility to leverage capital investment and to manage  
26       the rehabilitation of these properties must be established. Repairing,  
27       modernizing, and improving New York city housing authority buildings  
28       must begin immediately so that hundreds of thousands of New Yorkers can  
29       reside in affordable housing that is decent, safe, sanitary, and in good  
30       repair. Establishing a new public entity, and transferring a leasehold  
31       interest in the buildings owned and operated by the New York city hous-  
32       ing authority to this new entity so that they can undergo the necessary  
33       rehabilitation, repair and modernization, will ensure that these build-  
34       ings continue to provide affordable housing to residents of New York  
35       city for many decades into the future. It is the understanding and  
36       intention of the legislature that any building transferred to this new  
37       public entity and operated by the New York city housing authority shall  
38       continue to be subject to the obligations imposed by Maribel Baez et al.  
39       v. New York City Housing Authority, No. 13-Civ-8916.

40       § 627. Definitions. As used or referred to in this article:

41       1. "Alternative project delivery contract" means any project delivery  
42       method authorized by this article, including construction manager build,  
43       construction manager at risk, and design-build, pursuant to which one or  
44       more contracts for the provision of design or construction management  
45       and construction services are awarded pursuant to an open and compet-  
46       itive method of procurement, as specified in section six hundred thir-  
47       ty-four of this article.

48       2. "Best value" means the basis for awarding contracts for services to  
49       a proposer that optimizes quality, cost and efficiency, price and  
50       performance criteria, which may include, but is not limited to:

51       (a) the quality of the proposer's performance on previous projects;  
52       (b) the timeliness of the proposer's performance on previous projects;  
53       (c) the level of customer satisfaction with the proposer's performance  
54       on previous projects;

1 (d) the proposer's record of performing previous projects on budget  
2 and ability to minimize cost overruns;

3 (e) the proposer's ability to limit change orders;

4 (f) the proposer's ability to prepare appropriate project plans;

5 (g) the proposer's technical capacities;

6 (h) the individual qualifications of the proposer's key personnel;

7 (i) the proposer's ability to assess and manage risk and minimize risk  
8 impact;

9 (j) the proposer's financial capability;

10 (k) the proposer's ability to comply with applicable requirements,  
11 including the provisions of articles one hundred forty-five, one hundred  
12 forty-seven and one hundred forty-eight of the education law;

13 (l) the proposer's past record of compliance with federal laws, state  
14 and local laws, rules, licensing requirements, where applicable, and  
15 executive orders, including, but not limited to, section three of the  
16 federal housing and urban development act of nineteen hundred sixty-  
17 eight, as amended, or any successor provision, article fifteen-A of the  
18 executive law, any other applicable laws concerning minority- and  
19 women-owned business enterprise participation, the labor law, and any  
20 other applicable labor and prevailing wage laws;

21 (m) the proposer's record of complying with existing labor standards,  
22 maintaining harmonious labor relations, and protecting the health and  
23 safety of workers and payment of wages above any locally-defined living  
24 wage;

25 (n) a quantitative factor to be used in evaluation of bids or offers  
26 for awarding of contracts for bidders or offerors that are certified as  
27 minority or women owned business enterprises pursuant to article  
28 fifteen-A of the executive law or certified pursuant to section thirteen  
29 hundred four of the New York city charter as minority or women owned  
30 business enterprises, or where the bidder is a joint venture including  
31 at least one such certified firm. Where the trust identifies a quantita-  
32 tative factor pursuant to this paragraph, the trust shall specify that  
33 businesses certified as minority or women owned business enterprises  
34 pursuant to article fifteen-A of the executive law as well as those  
35 certified as minority or women owned business enterprises pursuant to  
36 section thirteen hundred four of the New York city charter, or joint  
37 ventures including at least one such certified firm, are eligible to  
38 qualify for such factor. Nothing in this paragraph shall be construed to  
39 require that such businesses be concurrently certified as minority or  
40 women owned business enterprises under such article and such section to  
41 qualify for such quantitative factor; and

42 (o) a quantitative factor to be used in evaluation of bids or offers  
43 for awarding of contracts for bidders or offerors that provide economic  
44 opportunities for low and very low-income persons in accordance with  
45 section three of the federal housing and urban development act of nine-  
46 teen hundred sixty-eight, as amended, where applicable, or any successor  
47 provision. Such basis shall reflect, wherever possible, objective and  
48 quantifiable analysis.

49 3. "Board" means the board of trustees of the trust.

50 4. "City" means the city of New York.

51 5. "Construction manager at risk" means a project delivery method  
52 whereby a construction manager:

53 (a) serves as part of a team in conjunction with the owner in the  
54 design phase of the project;

1 (b) during the construction phase, acts as general contractor for  
2 agreed upon compensation as set forth in the construction manager at  
3 risk agreement; and

4 (c) assumes the risk of construction costs exceeding an amount speci-  
5 fied in the construction manager at risk agreement.

6 6. "Construction manager build" means a project delivery method where-  
7 by a construction manager, following a declaration of a disaster by the  
8 governor or state of emergency by the mayor pursuant to article two-B of  
9 the executive law or chapter one of title three of the administrative  
10 code of the city of New York, or following an independent cost estimate  
11 and a concurrence by NYCHA that construction work is required at a hous-  
12 ing facility to remedy defects to bring the housing facility into  
13 decent, safe, and sanitary condition:

14 (a) serves as part of a team in conjunction with the owner in the  
15 design phase of the project;

16 (b) under the oversight of the owner acts as the single source of  
17 responsibility to bid, select and hold construction contracts on behalf  
18 of the owner during the construction phase; and

19 (c) manages the construction project on behalf of the owner.

20 7. "Cost plus" means compensating a contractor for the cost to  
21 complete a contract by reimbursing actual costs for labor, equipment and  
22 materials plus an additional amount for overhead and profit.

23 8. "Design-build" means a project delivery method for the design and  
24 construction of a project with a single entity, which may be a team  
25 comprised of separate entities.

26 9. "Ground lease" means the written instrument pursuant to which NYCHA  
27 transfers to the trust its leasehold interest in its housing facilities  
28 and ancillary personal property.

29 10. "Housing facilities" means the land and buildings thereon owned or  
30 operated by NYCHA and the improvements made to such land and buildings  
31 for use in connection with development or operation of dwelling accommo-  
32 modations for low-income families.

33 11. "Low-income families" means low-, very low-, and extremely low-in-  
34 come families as defined in paragraph two of subsection (b) of section  
35 1437a of title forty-two of the United States code or any successor  
36 provision.

37 12. "Mayor" means the mayor of the city of New York.

38 13. "NYCHA" means the New York city housing authority.

39 14. "NYCHA board" means the members of NYCHA appointed pursuant to  
40 subdivision three of section four hundred two of this chapter.

41 15. "NYCHA CEO" means the chief executive officer of NYCHA who serves  
42 pursuant to NYCHA's by-laws.

43 16. "NYCHA CFO" means the chief financial officer of NYCHA who serves  
44 pursuant to NYCHA's by-laws.

45 17. "Other residents" means residents who are:

46 (a) residents of a housing facility on the date NYCHA transfers such  
47 facility to the trust but are not low-income families, as defined in  
48 this section, on the date of such transfer;

49 (b) low-income families, as defined in this section, and residents of  
50 a housing facility on the date NYCHA transfers such facility to the  
51 trust but who, subsequent to such transfer and during the course of the  
52 tenancies of such residents, no longer satisfy the definition of low-in-  
53 come families; or

54 (c) low-income families, as defined in this section, upon commencement  
55 of their tenancies in a housing facility operated by the trust but who,

1 during the course of the tenancies of such residents, do not satisfy the  
2 definition of low-income families.

3 18. "Project labor agreement" shall have the same meaning as described  
4 in section two hundred twenty-two of the labor law.

5 19. "Resident" means a natural person whose lawful primary residence  
6 is a dwelling unit in a housing facility.

7 20. "Trust" means the New York city public housing preservation trust.

8 21. "Voting process" means the process that shall be undertaken at a  
9 particular housing facility before the trust may transfer, convey,  
10 assign, mortgage, pledge or otherwise encumber any interest in, or  
11 permit or suffer any transfer, conveyance, assignment, mortgage, pledge  
12 or other encumbrance of any interest in such housing facility. The  
13 voting process shall be further defined as set forth in requirements  
14 promulgated pursuant to section six hundred thirty of this article.

15 § 628. New York city public housing preservation trust. 1. There is  
16 hereby established a public benefit corporation to be known as the "New  
17 York city public housing preservation trust". The purpose of such trust  
18 shall be the design, development, construction, reconstruction, improve-  
19 ment, modernization, rehabilitation, repairing and operation of housing  
20 facilities.

21 2. The trust shall be governed by and its powers shall be exercised by  
22 a board of trustees consisting of nine members. The members shall be the  
23 NYCHA CEO, the NYCHA CFO, the deputy mayor for housing and economic  
24 development of the city of New York, or another deputy mayor designated  
25 by the mayor if there is no deputy mayor with that designation, three  
26 members appointed by the NYCHA CEO, including two housing facility resi-  
27 dent members and one member at large, provided that one such housing  
28 facility resident member shall be selected from two candidates nominated  
29 by the recognized citywide council of presidents, or an equivalent  
30 successor body, and one such housing facility resident member shall be  
31 selected from two candidates nominated by the resident advisory board,  
32 or an equivalent successor body, and three members appointed by the  
33 mayor, including two housing facility resident members, provided that  
34 one such housing facility resident member shall be selected from two  
35 candidates nominated by the recognized citywide council of presidents,  
36 or an equivalent successor body, and one member who shall represent  
37 employees of NYCHA, as applicable, and be selected from two candidates  
38 nominated by organizations representing employees of NYCHA or the trust,  
39 as applicable. The NYCHA CEO shall be the chair of the trust. The  
40 board of trustees of the trust shall appoint the president of the trust.  
41 The term of each member, other than members serving by virtue of their  
42 positions, shall be three years, except at initial appointment when the  
43 terms shall be staggered so that no more than two members shall have  
44 terms that end in any given year, provided that the term of only one  
45 member appointed by the mayor shall end in any given year.

46 3. Each appointed member shall continue in office until a successor  
47 has been appointed and qualified unless otherwise removed as follows. A  
48 member may be removed by the NYCHA CEO or mayor, whichever appointed  
49 such member, upon the filing in the office of the trust and serving upon  
50 the member the reasons therefor. Such document setting forth the  
51 reasons shall be made available to the general public which shall  
52 include, but not be limited to, publishing such reasons on the websites  
53 of the trust and NYCHA. In the event a vacancy occurs in the office of  
54 an appointed member, the vacancy shall be filled in the same manner as  
55 was the original appointment of the member whose office became vacant.



1 4. Appointed members may engage in private employment, or in a profes-  
2 sion or business, unless otherwise prohibited by law, rule or regu-  
3 lation, provided, however, that notwithstanding any applicable provision  
4 of law, the members shall be subject to the limitations contained in  
5 sections two thousand six hundred three, two thousand six hundred four,  
6 two thousand six hundred five, and two thousand six hundred six of the  
7 New York city charter. The trust shall be an agency and such members  
8 shall be public servants for the purposes of such sections. In addition,  
9 such members shall be subject to the provisions of section one thousand  
10 one hundred sixteen of the New York city charter and shall for the  
11 purposes of such section be considered officers of the city. Further,  
12 such members, the president and certain critical employees of the trust  
13 as designated by the board or the president, shall be subject to the  
14 provisions of section 12-110 of the administrative code of the city of  
15 New York pertaining to the filing of annual disclosure reports with the  
16 city conflicts of interest board, and for such purpose, the members of  
17 the board of trustees shall be deemed to be compensated members of the  
18 trust.

19 5. The board shall provide for the holding of regular meetings, and  
20 such special meetings, at the call of the chair of the trust, as may be  
21 necessary. A majority of the whole number of members shall constitute a  
22 quorum for the transaction of business. The powers of the board shall be  
23 vested in and exercised by a majority of the whole number of the members  
24 thereof. Any one or more members of the board may participate in a  
25 meeting of the trust by means of videoconferencing consistent with arti-  
26 cle seven of the public officers law.

27 6. Members of the board, other than members serving by virtue of their  
28 positions, shall receive a stipend in the amount of two hundred fifty  
29 dollars for every four hours of work performed for the trust, not to  
30 exceed one thousand five hundred dollars per month. In addition,  
31 members shall be reimbursed for the actual and necessary expenses  
32 incurred by them in the performance of their official duties as members  
33 of the board of trustees.

34 7. The board shall appoint a president of the trust and determine the  
35 compensation of the president. The president, who shall not be a member  
36 of the board, shall be the chief executive officer of the trust and  
37 shall be responsible for the discharge of the executive and administra-  
38 tive functions and powers of the trust, including the exercise of any  
39 powers delegated by the board to the president. The president shall  
40 serve at the pleasure of the board.

41 8. The trust and its corporate existence shall continue until termi-  
42 nated by law, provided, however, that no such law shall take effect so  
43 long as the trust shall have bonds, notes and other obligations  
44 outstanding, unless adequate provision has been made for the payment  
45 thereof. Upon the termination of the existence of the trust, all its  
46 rights and properties shall pass to and be vested in NYCHA.

47 9. Notwithstanding any provision of law to the contrary, no officer or  
48 employee of the state, or of any civil division thereof, or of any  
49 public corporation, as defined in the general construction law, includ-  
50 ing NYCHA, shall be deemed to have forfeited or shall forfeit such  
51 person's office or employment or any benefits provided under the retire-  
52 ment and social security law or under any public retirement system main-  
53 tained by the state or by the civil divisions thereof, or by any such  
54 public corporation, by reason of such person's acceptance of membership  
55 on the board of the trust or by virtue of such person being an officer  
56 or employee of the trust.

1     § 629. Powers and duties of the trust. The trust shall have the  
2 following powers and duties:

3     1. to sue and be sued;

4     2. to have a seal and alter the same at pleasure;

5     3. to make and, as necessary, to amend and repeal by-laws for the  
6 trust and the management and regulation of its affairs not inconsistent  
7 with the provisions of this article;

8     4. to appoint the president of the trust and fix the president's  
9 compensation, pursuant to section six hundred twenty-eight of this arti-  
10 cle, and to execute direct oversight of the president and other manage-  
11 ment in the effective and ethical management of the trust, and establish  
12 policies regarding the payment of salary, compensation and reimburse-  
13 ments to, and establish rules for the time and attendance of the presi-  
14 dent and management;

15     5. to engage or assist in the development, design, construction,  
16 reconstruction, improvement, modernization, rehabilitation, repairing,  
17 and operation of housing facilities pursuant to section two hundred  
18 twenty of the labor law;

19     6. to acquire or transfer real and personal property and improvements  
20 thereon, or any interest therein, by any method, necessary or convenient  
21 for the exercise of its functions, powers and duties; provided that such  
22 transfer shall not be utilized to avoid the use of a project labor  
23 agreement or payment of the prevailing wage requirements set forth in  
24 section two hundred twenty of the labor law;

25     7. to encumber residential property and buildings held by the trust  
26 and limit use to residents who are low-income families as defined in  
27 subdivision eleven of section six hundred twenty-seven of this article  
28 and other residents as defined in subdivision seventeen of section six  
29 hundred twenty-seven of this article;

30     8. to make and execute contracts and all other instruments necessary  
31 or convenient for the exercise of its functions, powers and duties,  
32 including procurement contracts consistent with applicable provisions of  
33 this article. Notwithstanding any provision of law to the contrary,  
34 including but not limited to article eight of this chapter, the trust  
35 may enter into contracts, consistent with applicable provisions of this  
36 article, with NYCHA or on behalf of and for the benefit of NYCHA;

37     9. to enter into agreements with the NYCHA or other entities for the  
38 provision of management, maintenance and other services;

39     10. notwithstanding the provisions of section twenty-five hundred four  
40 of the insurance law or any other provision of law to the contrary, to  
41 procure or cause to be placed or procured insurance on behalf of itself  
42 and others against any loss in connection with its activities, proper-  
43 ties and other assets, in such amounts and from such insurers as it  
44 deems desirable;

45     11. to enter into agreements with public agencies and public entities  
46 for the receipt of services;

47     12. to borrow and loan funds and issue bonds, notes or other obli-  
48 gations consistent with this article;

49     13. to form or participate as members or partners of private entities,  
50 which may include but are not limited to, not-for-profit corporations,  
51 housing development fund corporations, limited liability corporations,  
52 and limited partnerships, to further the purposes and powers given and  
53 granted by this section;

54     14. to earn fees and other proceeds from the activities and powers  
55 given and granted by this section;

1 15. to apply for or accept from any source any gifts, grants,  
2 donations, or conveyances of land, money, other real or personal proper-  
3 ty, or other items of value, or loans of funds or property or financial  
4 or other aid or credit assistance in any form, including any guaranty,  
5 line of credit, or grant, from the federal government or any agency or  
6 instrumentality thereof, from the state or any agency or instrumentality  
7 thereof, from the city or any agency or instrumentality thereof, or from  
8 any other source, for any or all of the purposes specified in this arti-  
9 cle, and it may comply, subject to the provisions of this article, with  
10 the terms and conditions thereof;

11 16. prior to the approval of any rule or regulation affecting rights  
12 and protections afforded to residents of housing facilities, including,  
13 but not limited to, resident protections and opportunities pursuant to  
14 section six hundred thirty-one of this article, lease revisions, sched-  
15 ules of special charges for services, repairs and utilities, and rules  
16 and regulations to be incorporated into the lease by reference, the  
17 trust shall post a notice containing the proposed rule or regulation on  
18 the website of the trust and in a prominent location in the affected  
19 housing facility. Such notice shall include (a) a statement of the basis  
20 and purpose of the proposed rule, (b) the time and place of the meeting  
21 at which the board will provide residents an opportunity to provide oral  
22 comment on such proposed rule, provided that a meeting to provide resi-  
23 dents an opportunity to provide oral comment shall not be required if  
24 such rule is required by law with only minor, if any, exercise of  
25 discretion by the trust, or does not adversely affect the protections  
26 afforded to the residents of the housing facilities, and (c) an opportu-  
27 nity to submit written comments and the final date for receipt of writ-  
28 ten comments. The trust may adopt a rule or regulation after receiving  
29 written comments on the proposed rule or regulation for a period of at  
30 least thirty days. The trust shall consider all comments received in  
31 such period prior to adopting such rule or regulation. In the event the  
32 trust determines that immediate adoption of any rule or regulation is  
33 necessary for the preservation of health, safety or general welfare and  
34 that compliance with the foregoing requirements of this subdivision  
35 would be contrary to the public interest, such proposed item may be  
36 adopted on an emergency basis. The trust shall provide written justi-  
37 fication for such determination and make such justification publicly  
38 available including via its website and in a prominent location in the  
39 affected housing facility. Any such immediate adoption shall only remain  
40 in effect for sixty days, and during such time the trust shall comply  
41 with the requirements of this subdivision in order for the adoption of  
42 the rule or regulation to become permanent. All notice shall be under-  
43 taken in compliance with language access requirements in federal and  
44 state law, as applicable; and

45 17. to do any and all things necessary or convenient to carry out and  
46 exercise the powers given and granted by this article.

47 § 630. Transfer of property. 1. NYCHA, acting by NYCHA board resol-  
48 ution and in accordance with a disposition or similar plan approved by  
49 the United States department of housing and urban development in accord-  
50 ance with applicable federal law, which shall include a letter of  
51 approval from the mayor or a designee of the mayor, may transfer to the  
52 trust, with or without consideration and without any further authori-  
53 zation, a leasehold interest in its housing facilities and any ancillary  
54 personal property of such facilities. The aggregate number of residen-  
55 tial units transferred to the trust pursuant to this section shall not  
56 exceed twenty-five thousand. On an annual basis, NYCHA and the trust



1 shall review such limit and, if they determine that such limit should be  
2 increased, NYCHA and the trust shall make recommendations to the legis-  
3 lature regarding any such increase.

4 2. Within sixty days of the effective date of this article, NYCHA  
5 shall issue a set of proposed requirements related to the voting proc-  
6 ess. There shall be a comment period for the voting process, and the  
7 comment period shall include at least one meeting open to the public.  
8 NYCHA shall consider the comments before issuance of the final require-  
9 ments for the voting process. The comments, and the responses to such  
10 comments, shall be published publicly, including, but not limited to, on  
11 NYCHA's website. Within one hundred twenty days of the effective date  
12 of this article, the final requirements for the voting process, which  
13 may be amended as needed pursuant to the process described in this  
14 section, shall be posted. Such voting process requirements shall  
15 include: the minimum requirements for voter outreach that shall occur  
16 prior to any vote, which shall, at a minimum, conform to the require-  
17 ments set forth in subdivision five of this section, voting eligibility,  
18 the form, substance, and timing of the voting process, the voting  
19 requirements regarding the selection of any other proposed modernization  
20 strategy at a housing facility in connection with the voting process,  
21 and the criteria by which an option shall be deemed to be accepted or  
22 rejected by residents of a particular housing facility for a moderniza-  
23 tion strategy that addresses the capital needs of such housing facility.  
24 The voting process shall ensure that all tenants of record above the age  
25 of eighteen are eligible to vote. The voting process shall include  
26 options to vote in person, by mail, and online. The voting process shall  
27 also require a minimum percentage of tenants of record at such housing  
28 facility to participate in the voting process for such voting process to  
29 be valid. The voting process shall also include, but shall not be limit-  
30 ed to, the ability of residents at a particular housing facility to  
31 reject the options proposed for such housing facility submitted as part  
32 of the voting process. If all options are rejected at a particular hous-  
33 ing facility, none of the proposed options shall be implemented at such  
34 housing facility until another vote is undertaken at such housing facil-  
35 ity. NYCHA shall comply with a vote to accept or reject any such  
36 options. The trust shall not transfer, convey, assign, mortgage, pledge  
37 or otherwise encumber any interest in, or permit or suffer any transfer,  
38 conveyance, assignment, mortgage, pledge or other encumbrance of any  
39 interest in such housing facility, or any part thereof, prior to the  
40 posting of the final requirements for the voting process, prior to the  
41 completed vote at such housing facility approving such option, and prior  
42 to the satisfaction of applicable federal law and regulations. NYCHA  
43 shall not transfer, convey, assign, mortgage, or pledge to the trust, or  
44 permit or suffer any transfer, conveyance, assignment, mortgage, or  
45 pledge to the trust any interest in such housing facility, or any part  
46 thereof, prior to the posting of the final requirements for the voting  
47 process, prior to the completed vote at such housing facility approving  
48 such option, and prior to the satisfaction of applicable federal law and  
49 regulations.

50 3. In addition to the requirements set forth in subdivision two of  
51 this section, the trust shall not transfer, convey, assign, mortgage,  
52 pledge or otherwise encumber any interest in, or permit or suffer any  
53 transfer, conveyance, assignment, mortgage, pledge or other encumbrance  
54 of any interest in any housing facilities, or any part thereof without  
55 prior written consent of NYCHA. Such written consent shall include, but  
56 not be limited to, all protections described in section six hundred

1 thirty-one of this article and in subdivision fourteen of section six  
2 hundred thirty-seven of this article and shall include reference to  
3 section six hundred thirty-three of this article.

4 4. The trust shall ensure that any housing facilities transferred to  
5 the trust pursuant to this section and any portions thereof are leased  
6 in accordance with United States department of housing and urban devel-  
7 opment eligibility and income-targeting requirements, to the extent  
8 applicable to the units therein. Rents for such units shall not exceed  
9 applicable program requirements for the provision of housing for low-in-  
10 come families as established pursuant to federal law and regulations.  
11 Where NYCHA rules, regulations or agreements exceed the resident  
12 protection standards set forth in state or federal law or regulations,  
13 any housing facilities transferred to the trust pursuant to this section  
14 and any portions thereof shall be leased in accordance with the require-  
15 ments set forth in the NYCHA rules, regulations, or agreements, as  
16 applicable. To the extent consistent with federal law and regulations,  
17 any transfer of a housing facility to the trust pursuant to this article  
18 shall ensure the maintenance of all rights conferred on a resident at  
19 the time of such transfer.

20 5. As part of the voting process and prior to the transfer of any  
21 housing facility, or any part thereof, to the trust, NYCHA shall engage  
22 in a course of resident engagement. Such resident engagement shall  
23 include: (a) Notice of proposed options on the website of NYCHA and in  
24 a prominent location of the affected housing facility in compliance with  
25 language access requirements in federal and state law, as applicable;

26 (b) a summary description of the proposed options;

27 (c) the time and place of at least one public meeting held in accord-  
28 ance with applicable accessibility requirements at which NYCHA shall  
29 provide residents of such facility information about the proposed  
30 options and an opportunity to provide oral comment on the proposed  
31 transfer;

32 (d) notification by mail, phone, and email, where such contact infor-  
33 mation is available, at least thirty days prior to a vote, to all resi-  
34 dents of such housing facility, which shall include information detail-  
35 ing the proposed options; and

36 (e) an opportunity for residents to submit written comments and the  
37 final date for submission of such comments. NYCHA shall consider and  
38 respond to all comments received in such period prior to completing a  
39 transfer pursuant to this subdivision.

40 § 631. Resident protections and opportunities. 1. The protections  
41 afforded to a resident of a housing facility shall be consistent with  
42 those afforded to a public housing resident, to the extent permitted in  
43 accordance with federal law, and subject to and with the approval of the  
44 United States department of housing and urban development. These  
45 protections shall include, but are not limited to:

46 (a) preserving the affordable character of such housing facility in  
47 accordance with section eight of the United States housing act of nine-  
48 teen hundred thirty-seven, as amended, or any successor provision and  
49 with part five of title twenty-four of the code of federal regulations  
50 or any successor regulation;

51 (b) ensuring that any resident required to relocate temporarily for  
52 purposes of rehabilitation or redevelopment of such housing facility is  
53 guaranteed the ability to return to such housing facility following the  
54 completion of such rehabilitation or redevelopment, and that the relo-  
55 cation expenses of such temporary relocation be paid for by the trust or  
56 NYCHA as required by applicable federal law;

1 (c) providing a resident of such housing facility the opportunity to  
2 establish and operate a council to represent residents in such housing  
3 facility to address concerns relating to such facility, pursuant to  
4 subpart b of part nine hundred sixty-four of title twenty-four of the  
5 code of federal regulations or any successor regulation, and to be  
6 eligible for resident participation funding from the trust consistent  
7 with funding available to residents of public housing pursuant to  
8 section 964.150 of title twenty-four of the code of federal regulations  
9 or any successor regulation, provided that any resident council that, at  
10 the time of the transfer of a housing facility to the trust, is certi-  
11 fied by NYCHA as the resident council shall be recognized by the trust  
12 as the resident council of such housing facility;

13 (d) providing a resident of a housing facility an opportunity for an  
14 informal hearing to grieve any dispute that such resident may have with  
15 respect to an action of the trust with regard to such resident's lease,  
16 consistent with the obligation of a public housing agency pursuant to  
17 paragraph eight of subdivision (e) of section 966.4 of title twenty-four  
18 of the code of federal regulations or any successor regulations and  
19 pursuant to subpart b of part nine hundred sixty-six of title twenty-  
20 four of the code of federal regulations or any successor regulations;

21 (e) providing a resident of a housing facility automatic renewal of  
22 such resident's leases, except for good cause as specified in the lease  
23 between such resident and the trust, consistent with the requirements  
24 relating to a lease between a public housing agency and a tenant of a  
25 dwelling unit pursuant to subparagraph (i) of paragraph two of subdivi-  
26 sion (a) and subdivision (l) of section 966.4 of title twenty-four of  
27 the code of federal regulations or any successor regulation;

28 (f) determining succession to a lease between a resident and the trust  
29 in accordance with the succession policy described in the management  
30 manual, and any amendments to such manual, of NYCHA;

31 (g) permitting a resident whose total tenant payment, as defined in  
32 section 983.3 of title twenty-four of the code of federal regulations,  
33 or any successor regulations, would equal or exceed the rent to owner,  
34 as defined in section 983.3 of title twenty-four of the code of federal  
35 regulations or any successor regulations, to remain in a housing facili-  
36 ty and pay rent in an amount to be determined by the trust and NYCHA and  
37 as set forth in the lease of such resident;

38 (h) determining succession to a voucher pursuant to section eight of  
39 the United States housing act of nineteen hundred thirty-seven, as  
40 amended, or any successor provision, in accordance with the housing  
41 voucher program administrative plan, and any amendments to such plan, of  
42 NYCHA; and

43 (i) no rescreening for eligibility or right-sizing of residents of a  
44 housing facility as a result of a transfer of the leasehold interest  
45 from NYCHA to the trust.

46 2. The resident protections described in subdivision one of this  
47 section shall be enumerated in the ground lease or other appropriate  
48 agreement between NYCHA and the trust and shall be further enumerated in  
49 writing between the trust and each resident of a housing facility.  
50 Nothing in this section shall preclude the trust or NYCHA from providing  
51 additional resident protections, which may be enumerated in any such  
52 ground lease or agreement.

53 3. The trust, to the greatest extent feasible, and consistent with  
54 federal, state and local laws and regulations, shall ensure that employ-  
55 ment and other economic opportunities be directed to residents of the  
56 housing facilities, consistent with section three of the federal housing

1 and urban development act of nineteen hundred sixty-eight, as amended,  
2 and part seventy-five of title twenty-four of the code of federal regu-  
3 lations or any successor law or regulation. All project labor agreements  
4 shall be consistent with this subdivision.

5 4. The trust shall act in accordance with the full requirements of  
6 part nine hundred sixty-four of title twenty-four of the code of federal  
7 regulations or any successor regulation. The trust shall, among other  
8 requirements, support resident participation in the operations of the  
9 housing facilities and negotiate, with any resident management corpo-  
10 rations, or equivalent that satisfies the requirements of such part, for  
11 operation of a housing facility. The trust shall consider applications  
12 of resident organizations, community organizations or other local organ-  
13 izations for grant funding, as available, to provide training, technical  
14 assistance, and education to residents to support active resident  
15 participation in the planning and implementation of the conversion proc-  
16 ess.

17 5. The trust shall ensure residents participate in the process to  
18 procure the vendors that will perform capital renovation, modernization,  
19 and construction work, excluding emergency procurements.

20 6. The trust shall create committees consisting of members as appro-  
21 priate, which shall include, but not be limited to, trust employees and  
22 residents of the housing facility where construction, reconstruction,  
23 rehabilitation, alteration, renovation, maintenance and repair work is  
24 being performed, and such committees shall meet as needed to provide  
25 input, and oversight, along with recommendations, with respect to the  
26 quality of such work performed by the vendors of the trust.

27 7. The trust and NYCHA shall, in accordance with applicable law,  
28 establish a procedure and eligibility requirements by which a person who  
29 is not a tenant of record as of thirty days before the execution of the  
30 transfer of a leasehold interest in the housing facility to the trust  
31 may become a tenant of record based on consideration of the familial  
32 nexus of such person to the last tenant of record on file with NYCHA,  
33 such individuals to include, but not be limited to, aunts, uncles, niec-  
34 es, nephews, and first cousins, provided that such applications to  
35 become a tenant of record following the transfer of a leasehold interest  
36 in the housing facility to the trust shall be made no later than thirty  
37 days before such transfer. Any requests received after such date will be  
38 reviewed in accordance with the policies described in the administrative  
39 plan, and any amendments to such plan, of NYCHA.

40 § 632. Compliance with codes. 1. The trust shall, in the design,  
41 development, construction, reconstruction, improvement, modernization,  
42 rehabilitation, repair, and operation of or otherwise providing for  
43 housing facilities, comply and cause all contractors of the trust to  
44 comply with applicable sanitary and building laws and regulations.

45 2. The trust shall adopt rules or regulations establishing sustainable  
46 design guidelines for the development, construction, reconstruction,  
47 improvement, modernization, rehabilitation, repair, and operation of, or  
48 otherwise providing for, housing facilities, which shall include crite-  
49 ria for beneficial electrification and renewable energy production in  
50 furtherance of the goals of decarbonized buildings, use of sustainable  
51 materials, and energy and water efficiency.

52 § 633. Contracts of the trust. 1. Notwithstanding any provision of law  
53 to the contrary, including but not limited to article eight of this  
54 chapter, the trust shall establish and maintain procurement policies  
55 that shall set forth the methods and procedures by which the trust shall  
56 procure contracts for goods and services, including but not limited to

1 services for design, development, construction, reconstruction, improve-  
2 ment, modernization, rehabilitation, repair and operation, related to  
3 property owned or leased by the trust, in a manner consistent with the  
4 provisions of this article. Such policies shall specifically include:

5 (a) a competitive sealed bidding process for the award of contracts in  
6 which sealed bids are publicly solicited or solicited from a list of  
7 prequalified bidders and opened and a contract is awarded to the lowest  
8 responsive, responsible bidder;

9 (b) processes for awarding contracts for goods and services using  
10 alternatives to competitive sealed bidding where competitive sealed  
11 bidding is not practicable or not advantageous, in which case the trust  
12 shall use the most competitive method of procurement that is appropriate  
13 under the circumstances to select the proposer offering the best value  
14 to the trust;

15 (c) a process for prequalifying bidders and proposers based on crite-  
16 ria, which may include an entity's experience, past performance, ability  
17 to undertake work, financial capability, responsibility, reliability and  
18 status as a certified minority or women owned business enterprise pursu-  
19 ant to article fifteen-A of the executive law or section thirteen  
20 hundred four of the New York city charter;

21 (d) reasonable procedures to secure the meaningful participation of  
22 minority and women owned business enterprises in the trust's procurement  
23 process. The trust may use the same measures to enhance minority and  
24 women owned business enterprise participation as are available to the  
25 city pursuant to applicable law, including section 6-129 of the adminis-  
26 trative code of the city of New York;

27 (e) processes for awarding alternative project delivery contracts, in  
28 a manner consistent with the terms of section six hundred thirty-four of  
29 this article;

30 (f) procedures for the fair and equitable resolution of contract  
31 disputes, for appeals of responsiveness and responsibility determi-  
32 nations by the trust, and for appeals of prequalification determi-  
33 nations;

34 (g) a process for making purchases off contracts procured by public  
35 agencies and public entities, provided that such contract exists between  
36 a vendor and (1) the United States General Services Administration, (2)  
37 the state of New York or any of its political subdivisions, (3) another  
38 public authority or public corporation of the state, (4) another public  
39 housing agency or public housing authority, or (5) any purchasing coop-  
40 erative where the lead purchasing entity is any of the foregoing,  
41 provided that in any case when the trust under this paragraph determines  
42 that obtaining such item thereby would be in the public interest and  
43 provide for greater economy and efficiency and sets forth the reasons  
44 for such determination. Such rationale shall include, but not be limit-  
45 ed to, a determination of need, a consideration of the procurement meth-  
46 od by which the contract was awarded, an explanation why a competitive  
47 procurement or the use of a centralized contract let by the commissioner  
48 of the office of general services is not in the best interest of the  
49 trust, and the reasonableness of cost; and

50 (h) a mechanism for procurements without a formal competitive process  
51 where:

52 (1) the existence of an emergency involving danger to life, safety or  
53 property requires immediate action and cannot await a competitive proc-  
54 ess for goods or services to be purchased, including, but not limited  
55 to, services for construction, reconstruction, rehabilitation, alter-  
56 ation, renovation, maintenance or repairs, which are essential to effi-



1 cient operation or the adequate provision of service by the trust and as  
2 a consequence of unforeseen circumstance such purchase cannot await a  
3 competitive process;

4 (2) a procurement's value does not exceed fifty thousand dollars;

5 (3) the trust receives no responsive bids or only a single responsive  
6 bid in response to a solicitation for competitive bids or proposals;

7 (4) a procurement's value does not exceed five hundred thousand  
8 dollars and is made from a business certified as a minority or women  
9 owned business enterprise pursuant to article fifteen-A of the executive  
10 law and section thirteen hundred four of the New York city charter.  
11 Nothing in this paragraph shall be construed to require that such busi-  
12 ness be concurrently certified as minority or women owned business  
13 enterprises under article fifteen-A of the executive law and section  
14 thirteen hundred four of the New York city charter to be awarded such a  
15 contract;

16 (5) a duly appointed representative of the trust determines in writing  
17 that, based on a market analysis, only one source for the required goods  
18 or services, including but not limited to, services for construction,  
19 reconstruction, rehabilitation, alteration, renovation, maintenance and  
20 repairs, are available; or

21 (6) the contract is a contract between the trust and another govern-  
22 mental entity, including, but not limited to NYCHA.

23 2. Construction performed under a contract entered into by the trust  
24 pursuant to this article shall be deemed a public work to be performed  
25 in accordance with the provisions of article eight of the labor law,  
26 including but not limited to the prevailing wage requirements set forth  
27 in section two hundred twenty of the labor law and the reporting, moni-  
28 toring, and enforcement provisions of such article, and for projects or  
29 public works receiving federal aid, applicable federal requirements for  
30 prevailing wage. Any contract, the principal purpose of which is to  
31 provide construction services and that is either entered into through a  
32 competitive sealed bidding process or pursuant to section six hundred  
33 thirty-four of this article, and undertaken pursuant to a project labor  
34 agreement, shall include a clause requiring the selected alternative  
35 project delivery contractor or the contractor selected on the basis of  
36 its sealed bid to obligate every tier of contractor working on the  
37 public work to comply with the project labor agreement referenced in  
38 section six hundred thirty-four of this article and this section, and  
39 shall include project labor agreement compliance monitoring and enforce-  
40 ment provisions consistent with any such project labor agreement.

41 3. Contracts of the trust shall be subject to sections 6-108 and 6-123  
42 of the administrative code of the city of New York, and the trust shall  
43 constitute a "contracting agency" for the purposes of section 6-123 of  
44 the administrative code of the city of New York.

45 4. The provisions of section one hundred six-b of the general municipi-  
46 pal law shall apply to the trust.

47 5. The provisions of section one hundred fifty-one-a of this chapter  
48 shall apply to the trust.

49 6. Unless a federal requirement conflicts with any procurement proce-  
50 dure set forth in this article, the trust shall be required to comply  
51 with such procedure.

52 § 634. Alternative project delivery contracts. 1. Notwithstanding any  
53 provision of law to the contrary, including but not limited to section  
54 seventy-two hundred ten of the education law, and in conformity with the  
55 requirements of this article, for any public work undertaken pursuant to  
56 a project labor agreement the trust may use alternative project delivery

1 contracts, provided that the authority to advertise a request for quali-  
2 fication in accordance with this section shall expire five years after  
3 the effective date of this section.

4 (a) A contractor selected by the trust to enter into an alternative  
5 project delivery contract may be selected through a two-step method, as  
6 follows:

7 (1) Step one. The first step shall be the generation of a list of  
8 responding entities that have demonstrated the general capability to  
9 perform the alternative project delivery contract. Such list shall  
10 consist of a specified number of responding entities, as determined by  
11 the trust, and shall be generated based upon the trust's review of  
12 responses to a publicly advertised request for qualifications. The  
13 trust's request for qualifications shall include a general description  
14 of the public work, the maximum number of responding entities to be  
15 included on such list, the selection criteria to be used and the rela-  
16 tive weight of each criteria in generating such list. Such selection  
17 criteria shall include the qualifications and experience of the entity  
18 or team of entities, organization, demonstrated responsibility, ability  
19 of the entity or team of entities or of a member or members of the enti-  
20 ty or team of entities to comply with applicable requirements, including  
21 the provisions of articles one hundred forty-five, one hundred forty-  
22 seven and one hundred forty-eight of the education law, past record of  
23 compliance with the labor law, and such other qualifications the trust  
24 deems appropriate, which may include but are not limited to project  
25 understanding, financial capability and record of past performance. The  
26 trust shall evaluate and rate all responding entities to the request for  
27 qualifications. Based upon such ratings, the trust shall list the  
28 responding entities that shall receive a request for proposals in  
29 accordance with subparagraph two of this paragraph. To the extent  
30 consistent with applicable federal law, the trust shall consider, when  
31 awarding any contract pursuant to this section, the participation of (i)  
32 responding entities that are certified as minority or women owned busi-  
33 ness enterprises pursuant to article fifteen-A of the executive law, or  
34 certified pursuant to local law as minority or women owned business  
35 enterprises, (ii) small business concerns identified pursuant to subdi-  
36 vision (b) of section one hundred thirty-nine-g of the state finance  
37 law, and (iii) business concerns that provide economic opportunities for  
38 low and very low-income persons in accordance with section three of the  
39 federal housing and urban development act of nineteen hundred sixty-  
40 eight, as amended, or any successor provision. In addition, nothing in  
41 this section shall be deemed to supersede any prequalification policies  
42 adopted by the trust pursuant to section six hundred thirty-three of  
43 this article.

44 (2) Step two. The second step shall be the selection of the proposal  
45 which is the best value to the trust. The trust shall issue a request  
46 for proposals to the responding entities listed pursuant to subparagraph  
47 one of this paragraph. If such a responding entity consists of a team of  
48 separate entities, the entities that comprise such a team shall remain  
49 unchanged from the responding entity as listed pursuant to subparagraph  
50 one of this paragraph unless otherwise approved by the trust. The  
51 request for proposals shall set forth the public work's scope of work,  
52 and other requirements, as determined by the trust, which may include  
53 separate goals for work under the contract to be performed by businesses  
54 certified as minority or women owned business enterprises pursuant to  
55 article fifteen-A of the executive law, or certified pursuant to local  
56 law as minority or women owned business enterprises, or goals estab-

lished pursuant to section three of the federal housing and urban development act of nineteen hundred sixty-eight, as amended, or any successor provision, if applicable. The request for proposals shall also specify the criteria to be used to evaluate the responses and the relative weight of each of such criteria. Such criteria shall include: the quality of the proposal's solution; the qualifications and experience of the proposer; the proposal's cost, which may include factors that may be considered individually or in the aggregate, such as the proposed cost of design phase work, the proposed cost of construction phase work, or cost factors relating to construction phase work, as applicable; and other factors deemed pertinent by the trust, which may include, but shall not be limited to, the proposal's manner and schedule of project implementation, the proposer's ability to complete the work in a timely and satisfactory manner, maintenance costs of the completed public work, maintenance of traffic approach, and community impact. The trust may engage in negotiations or other discussions with all qualified vendors that have expressed interest, provided that the trust maintains a written record of the conduct of negotiations or discussions and the basis for every determination to continue or suspend negotiations, and further provided that if the trust determines for a particular contract or for a particular type of contract that it is in the trust's best interest to negotiate or enter into discussions with fewer proposers, it may make such a determination in writing. If the trust enters into such negotiations, the trust shall allow all proposers to revise their proposals upon conclusion of negotiations, and the trust shall evaluate the proposers' revised proposals using the criteria included in the request for proposals. Any contract awarded pursuant to this section shall be awarded to a responsive and responsible proposer, which, in consideration of these and other specified criteria deemed pertinent, offers the best value as determined by the trust. The request for proposals shall include a statement that proposers shall designate in writing those portions of the proposal that contain trade secrets or other proprietary information that are to remain confidential, so that the material designated as confidential shall be readily separable from the proposal. Nothing in this subdivision shall be construed to prohibit the trust from negotiating final contract terms and conditions including cost. All proposals submitted shall be scored according to the criteria listed in the request for proposals and such final scores shall be published on the trust's website after the date upon which such contract may be implemented.

(b) The trust, in awarding an alternative project delivery contract to a contractor offering the best value may use the following types of contracts:

(1) a cost-plus not to exceed guaranteed maximum price form of contract in which the trust shall be entitled to monitor and audit all costs. In establishing the schedule and process for determining a guaranteed maximum price, the contract between the trust and the contractor shall include terms specifying the price for the design phase of the work, the scope of the work, and any applicable cost factors relating to construction phase work that were included in the contractor's proposal. A fair and reasonable guaranteed maximum price for the construction phase of the work, or portions of the construction phase of the work, may be agreed to as one or more amendments to such contract based on developments in the design of the project that occur after such contract is executed. Each guaranteed maximum price amendment shall: (i) describe the scope of the portion of the construction phase work subject

1 to the amendment, the cost of performing such work, and the maximum  
2 costs of any contingencies related to such work, (ii) include a detailed  
3 line item cost breakdown, (iii) include a list of all drawings, specifi-  
4 cations and other information on which the guaranteed maximum price is  
5 based, (iv) include the dates of substantial and final completion on  
6 which the guaranteed maximum price is based, as applicable, and (v)  
7 include a schedule of unit prices. The trust shall maintain a written  
8 record of each guaranteed maximum price amendment, which shall include a  
9 summary of the negotiation process and a description of the relevant  
10 developments in the design of the project, independent cost estimates  
11 prepared by or on behalf of the trust, as required pursuant to a policy  
12 established by the trust, the contractor's actual cost schedules and  
13 unit prices, and any other factors that the trust considered. If the  
14 trust and the contractor cannot agree upon a guaranteed maximum price  
15 for one or more portions of construction phase work, the trust may  
16 direct the contractor to assign all or a portion of the duties and  
17 rights under such alternative project delivery contract to another  
18 responsive and responsible proposer pursuant to subparagraph two of  
19 paragraph (a) of this subdivision that offered the best value of the  
20 remaining proposers and that will agree to accept such assignment. This  
21 subparagraph shall not be deemed to prohibit the use of any contract  
22 terms or procedures pursuant to any other provision of law, including  
23 but not limited to provisions included in this article;

24 (2) a lump sum contract in which the contractor agrees to accept a set  
25 dollar amount for a contract which comprises a single bid without  
26 providing a cost breakdown for all costs such as for equipment, labor,  
27 materials, as well as such contractor's profit for completing all items  
28 of work comprising the public work;

29 (3) incentive payments identified in the text of the contract for  
30 performance objectives; or

31 (4) a combination of elements of the contract types listed herein.

32 2. All alternative project delivery contracts entered into pursuant to  
33 this section shall include a clause requiring that any professional  
34 services regulated by articles one hundred forty-five, one hundred  
35 forty-seven and one hundred forty-eight of the education law shall be  
36 performed and stamped and sealed, where appropriate, by a professional  
37 licensed in accordance with the appropriate article.

38 3. The submission of a proposal or responses or the execution of an  
39 alternative project delivery contract pursuant to this article shall not  
40 be construed to be a violation of section six thousand five hundred  
41 twelve of the education law.

42 4. Each alternative project delivery contract entered into by the  
43 trust pursuant to this article shall comply with the objectives and  
44 goals relating to the performance of design and construction services by  
45 minority and women owned business enterprises pursuant to section 6-129  
46 of the administrative code of the city of New York, or, for projects or  
47 public works receiving federal aid, applicable federal requirements for  
48 disadvantaged business enterprises or minority and women owned business  
49 enterprises and section three of the federal housing and urban develop-  
50 ment act of nineteen hundred sixty-eight, as amended, or any successor  
51 provision, if applicable.

52 5. (a) Notwithstanding any provision of law to the contrary, all  
53 rights or benefits, including terms and conditions of employment, and  
54 protection of civil service and collective bargaining status of all  
55 employees of NYCHA and the trust solely in connection with the use of an

1 alternative project delivery contract pursuant to this section shall be  
2 preserved and protected.

3 (b) The use of alternative project delivery contracts pursuant to this  
4 section shall not result in the (1) displacement of any currently  
5 employed worker of NYCHA or loss of position, including partial  
6 displacement such as a reduction in the hours of non-overtime work,  
7 wages or employment benefits, or result in the impairment of existing  
8 collective bargaining agreements to which NYCHA is a party, or (2)  
9 transfer of existing duties and functions related to maintenance and  
10 operations currently performed by existing employees of NYCHA to a  
11 contractor.

12 (c) Employees of the trust and NYCHA serving in positions in newly  
13 created titles shall be assigned to the appropriate bargaining unit.  
14 Nothing contained in this section shall be construed to affect (1) the  
15 existing rights of employees of NYCHA pursuant to an existing collective  
16 bargaining agreement, (2) the existing representational relationships  
17 among employee organizations representing employees of NYCHA, or (3) the  
18 bargaining relationships between NYCHA and such employee organizations.

19 (d) Without limiting contractors' obligations under alternative  
20 project delivery contracts to issue their own initial certifications of  
21 substantial completion and final completion, public employees of the  
22 trust shall review and determine whether the work performed by contrac-  
23 tors is acceptable and has been performed in accordance with the appli-  
24 cable alternative project delivery contracts, and if such public employ-  
25 ees so determine, such public employees shall accept contractors'  
26 substantial or final completion of the public works as applicable.  
27 Performance by public employees of the trust of any review described in  
28 this subdivision shall not be construed to modify or limit contractors'  
29 obligations to perform the work in strict accordance with the applicable  
30 alternative project delivery contract or the contractors' or any subcon-  
31 tractors' obligations or liabilities under any law.

32 § 635. Additional authority. The procurement authority conferred by  
33 this article shall not impact or impair, and shall be in addition to,  
34 the authority conferred by the NYCHA modernization investment act and  
35 the New York city public works investment act.

36 § 636. Additional requirements for alternative project delivery  
37 contracts. Construction performed under a contract entered into by the  
38 trust pursuant to this article shall be deemed a "public work" to be  
39 performed in accordance with the provisions of article eight of the  
40 labor law, including but not limited to the prevailing wage requirements  
41 set forth in section two hundred twenty of the labor law and the report-  
42 ing, monitoring, and enforcement provisions of article eight of such  
43 law, as well as subject to sections two hundred, two hundred forty, two  
44 hundred forty-one and two hundred forty-two of the labor law, and for  
45 projects or public works receiving federal aid, applicable federal  
46 requirements for prevailing wage. Any contract entered into pursuant to  
47 section six hundred thirty-four of this article, and undertaken pursuant  
48 to a project labor agreement, shall include a clause requiring the  
49 selected alternative project delivery contractor to obligate every tier  
50 of contractor working on the public work to comply with the project  
51 labor agreement referenced in section six hundred thirty-four of this  
52 article, and shall include project labor agreement compliance monitoring  
53 and enforcement provisions consistent with any such project labor agree-  
54 ment.

55 § 637. Borrowing by the trust and for its benefit; effects of certain  
56 defaults. 1. For the purposes of this section, the term "project" means



1 the acquisition, development, design, construction, reconstruction,  
2 improvement, rehabilitation, repairing and operation of housing facili-  
3 ties.

4 2. The trust shall have the power and is hereby authorized from time  
5 to time to issue bonds, notes or other obligations in conformity with  
6 applicable provisions of the uniform commercial code, in such principal  
7 amounts as it may determine to be necessary to pay the cost of any  
8 project and to fund reserves to secure such bonds, notes or other obli-  
9 gations, including costs of issuance and any administrative or inci-  
10 dental expenses in connection therewith, provided that the aggregate  
11 principal amount of such bonds, notes or other obligations shall not  
12 exceed ten billion dollars plus a principal amount of such bonds, notes  
13 or other obligations issued (a) to fund any related debt service reserve  
14 fund, (b) to provide capitalized interest, and (c) to provide fees and  
15 other charges and expenses, including underwriters' discount, related to  
16 the issuance of such bonds, notes or other obligations and the mainte-  
17 nance of such reserves. The trust shall have the power from time to  
18 time to refund any bonds, notes or other obligations of the trust by the  
19 issuance of new bonds, notes or other obligations, and may issue bonds,  
20 notes or other obligations partly to refund bonds, notes or other obli-  
21 gations of the trust then outstanding and partly to pay the cost of any  
22 project. Bonds, notes or other obligations issued by the trust shall be  
23 payable as may be designated in the resolution of the trust under which  
24 the bonds, notes or other obligations shall be authorized to be issued,  
25 subject to any agreements with the holders of outstanding bonds, notes  
26 or other obligations pledging any particular revenues or moneys. No  
27 bonds, notes or other obligations of the trust or any entity referred to  
28 in subdivision thirteen of section six hundred twenty-nine of this arti-  
29 cle shall be issued or incurred without the prior written approval of  
30 the director of management and budget of the city of New York, and no  
31 such bonds, notes or other obligations shall be issued for the purpose  
32 of refinancing any bonds, notes or other obligations of NYCHA, provided  
33 that the proceeds of up to six hundred million dollars of the bonds,  
34 notes or other obligations of the trust or any entity referred to in  
35 subdivision thirteen of section six hundred twenty-nine of this article  
36 may be applied to the payment of outstanding debt incurred by NYCHA in  
37 connection with one or more housing facilities, in furtherance of the  
38 purposes of this article, including, but not limited to, for the purpose  
39 of payment of outstanding energy performance contract debt.

40 3. The trust shall be authorized to obtain insurance, letters of cred-  
41 it and other credit or liquidity facilities related to its bonds, notes  
42 or other obligations.

43 4. The board may delegate to the chair or the president of the trust  
44 the power to set the final terms of bonds, notes or other obligations.

45 5. Whenever the trust shall determine that the issuance of its bonds,  
46 notes or other obligations is appropriate, the trust shall make a deter-  
47 mination as to the arrangements necessary for the issuance and sale of  
48 such bonds, notes or other obligations, including the underwriting of  
49 such bonds, notes or other obligations through the public or private  
50 sale of such bonds, notes or other obligations, and such determination  
51 shall include compensation for services rendered as the trust deems  
52 appropriate. Such determination shall be set forth in a resolution of  
53 the trust, which shall authorize issuance of such bonds, notes or other  
54 obligations. The bonds, notes or other obligations shall bear interest  
55 at such fixed or variable rates and shall be in such denominations, be  
56 in such form, either coupon or registered, be sold at such public or

1 private sale, be executed in such manner, be denominated in United  
2 States currency, be payable in such medium of payment, at such place and  
3 be subject to such terms of redemption as the trust may provide in such  
4 resolution.

5 6. Any resolution or resolutions authorizing bonds, notes or other  
6 obligations or any issue of bonds, notes or other obligations may  
7 contain provisions which may be a part of the contract with the holders  
8 of the bonds, notes or other obligations thereby authorized as to:

9 (a) pledging all or part of its revenues, including, but not limited  
10 to, project-based or tenant-based assistance pursuant to section eight  
11 of the United States housing act of nineteen hundred thirty-seven, as  
12 amended, or any successor provision, and assistance provided to NYCHA  
13 pursuant to section nine of the United States housing act of nineteen  
14 hundred thirty-seven, as amended, or any successor provision, together  
15 with any other moneys, securities or contracts, to secure the payment of  
16 the bonds, notes or other obligations, subject to such agreements as may  
17 then exist;

18 (b) the setting aside of reserves and the creation of sinking funds  
19 and the regulation and disposition thereof;

20 (c) limitations on the purpose to which the proceeds from the sale of  
21 bonds, notes or other obligations may be applied;

22 (d) limitations on the issuance of additional bonds, notes or other  
23 obligations, the terms upon which additional bonds, notes or other obli-  
24 gations may be issued and secured and the refunding of bonds, notes or  
25 other obligations;

26 (e) the procedure, if any, by which the terms of any contract with  
27 holders of bonds, notes or other obligations may be amended or abrogat-  
28 ed, including the proportion of holders of bonds, notes or other obli-  
29 gations which are needed to consent thereto and the manner in which such  
30 consent may be given;

31 (f) vesting in a bond trustee or trustees such properties, rights,  
32 powers and duties in trust as the trust may determine; and

33 (g) defining the acts or omissions to act that may constitute a  
34 default in the obligations and duties of the trust to the holders of  
35 bonds, notes or other obligations and providing for the rights and reme-  
36 dies of the holders of bonds, notes or other obligations in the event of  
37 such default, including as a matter of right the appointment of a  
38 receiver, provided, however, that such rights and remedies shall not be  
39 inconsistent with the general laws of the state and other provisions of  
40 this article.

41 7. In addition to the powers herein conferred upon the trust to secure  
42 its bonds, notes or other obligations, the trust shall have power in  
43 connection with the issuance of bonds, notes or other obligations to  
44 enter into such agreements for the benefit of the holders of bonds,  
45 notes or other obligations as the trust may deem necessary, convenient  
46 or desirable concerning the use or disposition of its revenues or other  
47 moneys, including the entrusting, pledging or creation of any other  
48 security interest in any such revenues, moneys and the doing of any act,  
49 including refraining from doing any act, which the trust would have the  
50 right to do in the absence of such agreements. The trust shall have  
51 power to enter into amendments of any such agreements within the powers  
52 granted to the trust by this article and to perform such agreements. The  
53 provisions of any such agreements may be made a part of the contract  
54 with the holders of bonds, notes or other obligations of the trust.

55 8. Notwithstanding any provision of the uniform commercial code to the  
56 contrary, any pledge of or other security interest in revenues, moneys,

1 accounts, contract rights, general intangible or other personal property  
2 made or created by the trust shall be valid, binding and perfected from  
3 the time when such pledge is made or other security interest attaches  
4 without any physical delivery of the collateral or further act, and the  
5 lien of any such pledge or other security interest shall be valid, bind-  
6 ing and perfected against all parties having claims of any kind in tort,  
7 contract or otherwise against the trust irrespective of whether or not  
8 such parties have notice thereof. No instrument by which such a pledge  
9 or security interest is created nor any financing statement need be  
10 recorded or filed.

11 9. Whether or not the bonds, notes or other obligations of the trust  
12 are of such form and character as to be negotiable instruments under the  
13 terms of the uniform commercial code, the bonds, notes or other obli-  
14 gations are hereby made negotiable instruments within the meaning of and  
15 for all the purposes of the uniform commercial code, subject only to the  
16 provisions of the bonds, notes or other obligations for registration.

17 10. Neither the members of the board nor any person executing bonds  
18 shall be liable personally thereon or be subject to any personal liabil-  
19 ity or accountability solely by reason of the issuance thereof. The  
20 bonds, notes or other obligations of the trust shall not be a debt of  
21 NYCHA, the city, or the state, and neither NYCHA, the city nor the state  
22 shall be liable thereon, nor shall they be payable out of any funds  
23 other than those of the trust, and such bonds, notes or other obli-  
24 gations shall contain on the face thereof a statement to such effect.

25 11. The trust, subject to such agreements with bondholders as then may  
26 exist, shall have power to purchase bonds, notes or other obligations of  
27 the trust out of any moneys available therefor, which shall thereupon be  
28 cancelled.

29 12. Notwithstanding any provision of article twelve of the private  
30 housing finance law, section twenty-nine hundred seventy-six of the  
31 public authorities law or any other general, special or local law to the  
32 contrary, (a) the purposes of the New York city housing development  
33 corporation and its powers granted in article twelve of the private  
34 housing finance law also shall include, subject to the provisions of any  
35 contract with holders of its bonds, notes or other obligations, the  
36 making of loans to the trust and entities referred to in subdivision  
37 thirteen of section six hundred twenty-nine of this article, and (b)  
38 bonds, notes or other obligations of the New York city housing develop-  
39 ment corporation issued for, or to refund bonds, notes or other obli-  
40 gations issued for, such purpose or the purposes of paying costs of  
41 issuance thereof or funding reserves to secure such bonds, notes or  
42 other obligations (i) may be sold without any consultation or approval  
43 otherwise required by subdivision two of section six hundred fifty-five  
44 of the private housing finance law, (ii) shall not be included in any  
45 calculation of outstanding bonds, notes or other obligations for  
46 purposes of section six hundred fifty-six of the private housing finance  
47 law and shall not be secured by any capital reserve fund established  
48 pursuant thereto, and (iii) shall not be included in any calculation of  
49 bonds, notes or other obligations issued by the New York city housing  
50 development corporation for purposes of section twenty-nine hundred  
51 seventy-six of the public authorities law.

52 13. In the event that any default on any bond, note or other obli-  
53 gation that is secured by an assignment of, mortgage on, pledge of or  
54 other encumbrance on any interest of the trust, or any entity referred  
55 to in subdivision thirteen of section six hundred twenty-nine of this  
56 article, in any housing facilities, has occurred and is continuing

1 beyond the applicable cure period, if any, provided to the trust or such  
2 entity in the instrument granting such assignment, mortgage, pledge or  
3 other encumbrance, notwithstanding any provision in such instrument, any  
4 right of the beneficiary of such instrument to obtain such interest in  
5 such housing facilities as a remedy to any such default shall, for a  
6 period ending thirty days after the end of such cure period, be subject  
7 to:

8 (a) the right of the city of New York to remedy, or cause to be reme-  
9 diated, such default; and

10 (b) the right of the state of New York to remedy, or cause to be reme-  
11 diated, such default; provided, however, that nothing in this subdivision  
12 shall be construed to impose any obligation on the city of New York or  
13 on the state of New York to remedy, or cause to be remedied, such  
14 default.

15 14. Notwithstanding any default on any obligation referred to in  
16 subdivision thirteen of this section, and any remedies exercised as a  
17 result of such default, provisions relating to the restricted use of the  
18 housing facilities for the provision and operation of housing for low-  
19 income families and current residents shall at all times continue to be  
20 in effect in perpetuity, and the housing facilities shall remain subject  
21 to the provisions of subdivision four of section six hundred thirty of  
22 this article and section six hundred thirty-one of this article. The  
23 trust shall not pledge the fee ownership of the housing facilities as  
24 part of a financing arrangement.

25 15. At least quarterly, the trust shall provide financial reports to  
26 the director of management and budget of the city of New York containing  
27 such information as the director of management and budget of the city of  
28 New York may request.

29 § 638. Resources of the trust. 1. Subject to the provisions of this  
30 article, the members of the board shall receive, accept, invest, admin-  
31 ister, expend and disburse for its corporate purposes all money of the  
32 trust from whatever sources derived including (a) the proceeds of bonds,  
33 notes and other obligations, and (b) any other payments, gifts, or  
34 appropriations to the trust from any other source.

35 2. Subject to the provisions of any contract with holders of bonds,  
36 notes or other obligations, the money of the trust shall be paid to the  
37 trust and shall not be commingled with any other money. The money of the  
38 trust shall be deposited in accounts held in the trust's name in the  
39 bank or banks in the state designated by the trust.

40 3. The moneys in such accounts shall be paid out on checks of the  
41 trust upon requisition by the chair or such officer or officers as the  
42 trust may authorize to make such requisitions, or pursuant to a bond  
43 resolution or trust indenture.

44 4. Any moneys on deposit in the accounts of the trust not required for  
45 immediate expenditure shall be invested in obligations in which a muni-  
46 cipality may be authorized to invest in accordance with section eleven  
47 of the general municipal law, provided, however, that such funds shall  
48 not be invested in instruments commonly known as repurchase agreements.  
49 The trust shall have the power, notwithstanding the provisions of this  
50 section, to contract with the holders of any of its bonds, notes and  
51 other obligations as to the custody, collection, securing, investment  
52 and payment of any money of the trust or any money held in trust or  
53 otherwise for the payment of bonds, notes and other obligations or in  
54 any way to secure bonds, notes and other obligations, and to carry out  
55 any such contract.

1     § 639. Legal investment and deposit. The bonds, notes or other obli-  
2 gations of the trust are hereby made securities in which all public  
3 officers and bodies of the state and all public corporations, munici-  
4 palities and municipal subdivisions, all insurance companies and associ-  
5 ations and other persons carrying on an insurance business, all banks,  
6 bankers, trust companies, savings banks and savings associations includ-  
7 ing savings and loan associations, building and loan associations,  
8 investment companies and other persons carrying on a banking business,  
9 all administrators, conservators, guardians, executors, trustees and  
10 other fiduciaries, and all other persons whatsoever who are now or may  
11 hereafter be authorized to invest in bonds or in other obligations of  
12 the state, may properly and legally invest funds, including capital, in  
13 their control or belonging to them. The bonds, notes or other obli-  
14 gations are also hereby made securities which may be deposited with and  
15 may be received by all public officers and bodies of the state and all  
16 municipalities and public corporations for any purpose for which the  
17 deposit of bonds, notes or other obligations of the state is now or may  
18 hereafter be authorized.

19     § 640. Tax exemption and tax contract by the state. 1. It is hereby  
20 determined that the creation of the trust and the carrying out of its  
21 corporate purposes is in all respects for the benefit of the people of  
22 the state of New York and is a public purpose. Accordingly, the trust  
23 shall be regarded as performing an essential governmental function in  
24 the exercise of the powers conferred upon it by this article, and the  
25 trust shall not be required to pay any fees, taxes, special ad valorem  
26 levies or assessments of any kind, including, but not limited to, fran-  
27 chise taxes, sales taxes or other taxes, upon or with respect to any  
28 property owned by it or under its jurisdiction, control or supervision,  
29 or upon the uses thereof, or upon or with respect to its activities or  
30 operations in furtherance of the powers conferred upon it by this arti-  
31 cle, or upon or with respect to any fares, tolls, rentals, rates, charg-  
32 es, fees, revenues or other income received by the trust.

33     2. Any bonds, notes or other obligations issued pursuant to this arti-  
34 cle together with the income therefrom shall at all times be exempt from  
35 taxation.

36     3. The state hereby covenants with the purchasers and with all subse-  
37 quent holders and transferees of bonds, notes or other obligations  
38 issued by the trust pursuant to this article, in consideration of the  
39 acceptance of and payment for the bonds, notes or other obligations,  
40 that the bonds, notes or other obligations of the trust issued pursuant  
41 to this article and the income therefrom and all revenues, monies, and  
42 other property pledged to pay or to secure the payment of such bonds,  
43 notes or other obligations shall at all times be free from taxation.

44     § 641. Actions against the trust. 1. Except in an action for wrongful  
45 death, no action or proceeding shall be prosecuted or maintained against  
46 the trust for personal injury or damage to real or personal property  
47 alleged to have been sustained by reason of the negligence or wrongful  
48 act of the trust or of any member of the board, officer, agent or  
49 employee thereof, unless (a) it shall appear by and as an allegation in  
50 the complaint or moving papers that a notice of claim shall have been  
51 made and served upon the trust, within the time limit prescribed by and  
52 in compliance with section fifty-e of the general municipal law, (b) it  
53 shall appear by and as an allegation in the complaint or moving papers  
54 that at least thirty days have elapsed since the service of such notice  
55 and that adjustment or payment thereof has been neglected or refused,  
56 and (c) the action or proceeding shall be commenced within the period



1 provided under section fifty-i of the general municipal law. An action  
2 against the trust for wrongful death shall be commenced in accordance  
3 with the notice of claim and time limitation provisions of title eleven  
4 of article nine of the public authorities law.

5 2. Wherever a notice of claim is served upon the trust, it shall have  
6 the right to demand an examination of the claimant relative to the  
7 occurrence and extent of the injuries or damages for which claim is  
8 made, in accordance with the provisions of section fifty-h of the gener-  
9 al municipal law.

10 3. The trust may require any person presenting for settlement an  
11 account or claim for any cause whatsoever against the trust to be sworn  
12 before a member of the board, counsel or an attorney, officer or employ-  
13 ee thereof designated for such purpose, concerning such account or claim  
14 and when so sworn, to answer orally as to any facts relative to such  
15 account or claim. The trust shall have power to settle or adjust any  
16 claims in favor of or against the trust.

17 4. The rate of interest to be paid by the trust upon any judgment for  
18 which it is liable, other than a judgment on bonds, notes or other obli-  
19 gations, shall not exceed the rate of interest on judgments and accrued  
20 claims against municipal authorities as provided in the general municip-  
21 al law. Interest on payments of principal or interest on any bonds,  
22 notes or other obligations in default shall accrue at the rate specified  
23 in the general municipal law until paid or otherwise satisfied.

24 5. The venue of every action, suit or special proceeding brought  
25 against the trust shall be laid in the county of New York.

26 § 642. Civil service and pension system membership. 1. The trust, for  
27 the purpose of administering the civil service law, shall be subject to  
28 the provisions of the civil service law and the rules of the city  
29 department of citywide administrative services or any successor acting  
30 as the municipal commission of the city. The president of the trust  
31 shall be empowered to act for the trust in all matters relating to  
32 compliance with this subdivision.

33 2. With respect to persons employed by NYCHA on the effective date of  
34 this section, the trust and NYCHA shall be deemed to be the same public  
35 employer only for purposes of transfer of employment under the civil  
36 service law, which may be made only with the approval of the NYCHA CEO  
37 and the president of the trust. No civil service right of an employee of  
38 NYCHA employed on the effective date of this article shall be lost,  
39 impaired or affected by reason of the enactment of this section into  
40 law.

41 3. Any person on an eligible list for a position with NYCHA shall  
42 continue to hold such position on such list and shall be entitled to the  
43 same civil service rights. The trust shall continue to use any new or  
44 existing civil service lists promulgated by the department of citywide  
45 administrative services until such time as successor titles are estab-  
46 lished. Employees of the trust shall have the same rights and benefits  
47 as employees of NYCHA.

48 4. Any officer or employee of NYCHA who is transferred to the trust  
49 pursuant to this section and who at the time of such transfer was a  
50 member of the New York city employees' retirement system shall continue  
51 to be a member of such system as long as he or she or they continues in  
52 such service, and shall continue to have all the rights, privileges and  
53 obligations of membership in such system. Employment by the trust shall  
54 constitute city-service for the purposes of chapter one of title thir-  
55 teen of the administrative code of the city of New York.

1     § 643. Collective negotiation. 1. The city of New York collective  
2 bargaining law shall apply to the trust.

3     2. For the purpose of article fourteen of the civil service law and  
4 the New York city collective bargaining law, as applicable, the trust,  
5 acting by and through its president, shall be deemed to be the public  
6 employer and as such shall negotiate with and enter into written agree-  
7 ments with employee organizations representing the staff of the trust  
8 that have been certified or recognized in accordance with applicable  
9 law. In carrying on such negotiations, the president of the trust may  
10 consult with and seek assistance from the city office of labor relations  
11 and NYCHA. The president of the trust shall consult with the appropriate  
12 public employee organization on the establishment of, and bargain all  
13 terms and conditions of, any new titles established for the trust which  
14 have a community of interest with titles already represented by the  
15 public employee organization which presently has representation rights  
16 for those titles for NYCHA or for the city. Any such titles for which  
17 terms and conditions are bargained pursuant to this subdivision shall be  
18 deemed to be successor titles within the meaning of applicable law and,  
19 so long as the responsibilities of employees in these titles are reason-  
20 ably related to the responsibilities of employees currently represented  
21 by a public employee organization, shall be accreted to the appropriate  
22 bargaining certificates for which such public employee organization  
23 shall be voluntarily recognized as the bargaining agent under procedures  
24 acceptable to the office of collective bargaining.

25     § 644. Application of state and local human rights laws. Notwithstand-  
26 ing any provision of law to the contrary, article fifteen of the execu-  
27 tive law and title eight of the administrative code of the city of New  
28 York shall apply to the trust.

29     § 645. Limited liability. 1. As used in this section, the term  
30 "employee" shall mean the members of the board, president, officers,  
31 employees, or a former employee, his or her estate or judicially  
32 appointed personal representative.

33     2. Neither the members of the board nor any officers or employee of  
34 the trust acting on behalf thereof, while acting within the scope of  
35 such person's authority, shall be subject to any liability resulting  
36 from carrying out any of the powers expressly given in this article.

37     3. At the request of the employee, and upon compliance by the employee  
38 with the provisions of this section, the trust shall provide for the  
39 defense of an employee in any civil action or proceeding in any state or  
40 federal court, arising out of any alleged act or omission which the  
41 trust finds occurred while the employee was acting within the scope of  
42 his or her public employment and in the discharge of his or her public  
43 duties and was not in violation of any rule or regulation of the trust  
44 at the time the alleged act or omission occurred. This duty to provide  
45 for a defense and indemnification shall not arise where such civil  
46 action or proceeding is brought by or on behalf of the trust against the  
47 employee.

48     4. The trust shall indemnify and hold harmless its employees in the  
49 amount of any civil judgment obtained against such employees in any  
50 state or federal court, or in the amount of any settlement of a claim  
51 approved by the trust provided that the act or omission from which such  
52 judgment or settlement arose occurred while the employee was acting  
53 within the scope of his or her public employment and in the discharge of  
54 his or her public duties and was not in violation of any rule or regu-  
55 lation of the trust at the time the alleged damages were sustained. The  
56 duty to indemnify and hold harmless prescribed by this section shall not

1 arise where the injury or damage resulted from an intentional wrongdo-  
2 ing, or recklessness on the part of the employee. Nothing in this  
3 section shall authorize the trust to indemnify or hold harmless an  
4 employee with respect to punitive or exemplary damages, fines or penal-  
5 ties.

6 5. The duty to defend and indemnify and hold harmless prescribed by  
7 this section shall be conditioned upon (a) delivery by the employee to  
8 the president or general counsel of the trust at the office of the trust  
9 of the original or a copy of any summons, complaint, claim, process,  
10 notice, demand or pleading within ten days after the employee is served  
11 with such document, and (b) the full cooperation of the employee in the  
12 defense of such action or proceeding and in defense of any action or  
13 proceeding against the trust based upon the same act or omission, and in  
14 the prosecution of any appeal. Such delivery shall be deemed a request  
15 by the employee that the trust provide for his or her defense pursuant  
16 to this section. In the event that the trust shall assume an employee's  
17 defense and thereafter the employee fails or refuses to cooperate in the  
18 formation or presentation of his or her defense, the court shall permit  
19 the trust to withdraw its representation ten days after giving written  
20 notice to the employee of its intention to discontinue such represen-  
21 tation.

22 6. In the event that the act or omission upon which the court proceed-  
23 ing against the employee is based was or is also the basis of a disci-  
24 plinary proceeding by the trust against the employee, representation and  
25 indemnification by the trust, as set forth in this section, may be with-  
26 held (a) until such disciplinary proceeding has been resolved, and (b)  
27 unless the resolution of the disciplinary proceeding exonerated the  
28 employee as to such act or omission.

29 7. Subject to the conditions set forth in this section, such employee  
30 shall be entitled to representation by the general counsel of the trust  
31 or by any attorney or attorneys designated by the general counsel,  
32 provided, however, that the employee shall be entitled to be represented  
33 by private counsel of his or her choice in any civil action or proceed-  
34 ing whenever the trust determines that representation would be inappro-  
35 prate, or whenever a court, upon appropriate motion or otherwise by a  
36 special proceeding, determines that a conflict of interest exists and  
37 that the employee is entitled to be represented by private counsel of  
38 the employee's choice. The general counsel of the trust shall notify the  
39 employee in writing of such determination that the employee is entitled  
40 to be represented by private counsel. Provided, however, that the trust  
41 may require, as a condition to payment of the fees and expenses of such  
42 representation, that appropriate groups of such employees be represented  
43 by the same counsel. Reasonable attorneys' fees and litigation expenses  
44 shall be paid by the trust to such private counsel from time to time  
45 during the pendency of a civil action or proceeding.

46 8. Any dispute with respect to representation of multiple employees by  
47 a single counsel or the reasonableness of attorneys' fees or the amount  
48 of litigation expenses shall be resolved by the court upon motion or by  
49 way of a special proceeding.

50 9. The benefits of this section shall inure only to employees as  
51 defined in this section and shall not enlarge or diminish the rights of  
52 any other party nor shall any provision of this section be construed to  
53 affect, alter or repeal any provision of the workers' compensation law.

54 10. The provisions of this section shall not be construed in any way  
55 to impair, alter, limit or modify the rights and obligations of any  
56 insurer under any policy of insurance.

11. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, member, officer or employee of the trust, or any right to defense or indemnification provided for any member, officer or employee by, in accordance with, or by reason of, any other provision of state, federal or local law or common law.

12. Every action or proceeding instituted pursuant to the provisions of this section shall be commenced pursuant to section six hundred forty-one of this article, and subject to any condition or limitation set forth in such section.

13. The provisions of this section shall apply to the actions and proceedings set forth herein notwithstanding any inconsistent provisions of state or local law.

§ 646. Audit and annual reports. The trust shall have an internal audit function and shall annually prepare and submit reports as required by this section, provided that no report shall be required during the earlier of the first year after the trust commences its operations or one year and nine months after the effective date of this section.

1. Within one one hundred twenty days of the end of the city's fiscal year, the trust shall submit to the mayor of the city, the recognized citywide council of presidents, or an equivalent successor body, and the NYCHA board a report on its operations during such fiscal year. An annual audit of the trust shall be conducted by an independent certified public accountant, and the trust's independently audited financial statements shall be included in this report. The report shall also detail the extent of completion of all projects for development, design, construction, reconstruction, improvement, rehabilitation, repairing and operation of housing facilities, including, by project, identified shortfalls in schedule performance and providing explanation for such shortfalls. Such report shall detail the extent of completion as existed on the last day of the city's fiscal year. Such report shall also include a description of each alternative project delivery contract, information regarding the procurement process for each such alternative project delivery contract including the list of responding entities that demonstrated the general capability to perform such alternative project delivery contract pursuant to paragraph (a) of subdivision one of section six hundred thirty-four of this article, the total cost of each alternative project delivery contract, an explanation of the estimated savings attributable from the alternative project delivery contract structure used, and the participation rate of and total dollar value of monies paid to minority and women owned business enterprises under such contract. Such report shall also include a description of the employment and other economic opportunities directed to residents of the housing facilities, such as reporting related to section three of the federal housing and urban development act of nineteen hundred sixty-eight, as amended, pursuant to subdivision three of section six hundred thirty-one of this article. Such report shall also include (i) an assessment of the effectiveness of internal controls, (ii) organization chart, (iii) salary information for all employees, (iv) debt issuance information (including outstanding debt and any new debt to be issued, costs of issuance data, bonds redeemed), (v) certain summary financial information, including receipts and disbursements, as well as assets and liabilities, (vi) annual procurement report, (vii) investment of agency funds information, (viii) information regarding the disposition of tenant complaints, maintenance of apartments and facilities, and other

1 information pertaining to the rights of tenants to remain in their  
2 apartment; and (ix) information regarding the level of outreach to, and  
3 participation of, residents related to the trust. The trust shall tran-  
4 smit the portion of such report relating to alternative project delivery  
5 contracts to the governor, the temporary president of the senate and the  
6 speaker of the assembly. Such report shall be made publicly available.

7 2. On the last business day in November of each calendar year, the  
8 trust shall submit a report describing its strategic planning framework  
9 for the upcoming calendar year to the mayor of the city and to the NYCHA  
10 board. Such report shall describe any capital improvements to be under-  
11 taken and the approximate costs of such improvements and shall provide  
12 information regarding operations, programs, and services of the trust.  
13 The trust shall present a draft of this report at a meeting of the board  
14 scheduled to occur no less than forty-five calendar days prior to the  
15 last business day in November. The trust shall make such draft available  
16 for public review no less than fifteen calendar days before such meet-  
17 ing. The trust shall offer the public an opportunity to provide oral  
18 comment on the report at such meeting and to submit written comments to  
19 the trust until a specified date prior to the date on which the report  
20 is finalized. The trust shall consider all comments received during such  
21 period prior to finalizing the report required by this subdivision.

22 § 647. Jurisdiction over trust. 1. The trust shall not be deemed a  
23 "covered organization" as defined in the New York state financial emer-  
24 gency act for the city of New York.

25 2. The department of investigation of the city shall be authorized to  
26 conduct investigations relating to the trust pursuant to chapter thir-  
27 ty-four of the New York city charter.

28 3. The comptroller of the city, or his or her legally authorized  
29 representative, is hereby authorized and empowered from time to time to  
30 examine the books and accounts of the trust including its receipts,  
31 disbursements, contracts, reserve funds, sinking funds, investments, and  
32 any other matters relating to its financial standing.

33 § 648. Effect of inconsistent provisions. Insofar as the provisions of  
34 this article are inconsistent with the provisions of any other law,  
35 general, special or local or of the New York city charter or any local  
36 law, ordinance or resolution of the city, the provision of this article  
37 shall be controlling, provided that nothing contained in this section  
38 shall be held to supplement or otherwise expand the powers or duties of  
39 the trust otherwise set forth in this article.

40 § 649. Severability. If any provision of this article or its applica-  
41 tion to any person or circumstance is held unconstitutional or invalid,  
42 in whole or in part, by any court, such holding of unconstitutionality  
43 or invalidity shall in no way affect or impair any other provision of  
44 this article or the application of any such provision to any other  
45 person or circumstance, and to this end the provisions of this article  
46 are severable.

47 § 2. Paragraph b of subdivision 3 of section 13-101 of the administra-  
48 tive code of the city of New York, as amended by chapter 16 of the laws  
49 of 1997, is amended to read as follows:

50 b. Service as a paid employee of the triborough bridge authority, the  
51 Henry Hudson parkway authority, the Marine parkway authority, the New  
52 York city tunnel authority, the New York city parkway authority, the New  
53 York city housing authority, the New York city public housing preserva-  
54 tion trust, the triborough bridge and tunnel authority, the New York  
55 city transit authority, the New York city housing development corpo-  
56 ration, the New York city health and hospitals corporation, the New York



1 city off-track betting corporation, the New York city school  
2 construction authority, the New York city municipal water finance  
3 authority, the New York city water board, the transit construction fund,  
4 the New York city transitional finance authority, the New York city  
5 sports authority and the New York city rehabilitation mortgage insurance  
6 corporation shall constitute city-service as herein defined.

7 § 3. Paragraph 1 of subdivision c of section 13-133 of the administra-  
8 tive code of the city of New York, subparagraph (C) as added by chapter  
9 738 of the laws of 1988, subparagraphs (D) and (E) as added by chapter  
10 609 of the laws of 1995, subparagraph (F) as added by chapter 16 of the  
11 laws of 1997, and subparagraph (G) as added by chapter 3 of the laws of  
12 2013, is amended to read as follows:

13 (1) (A) The comptroller shall make monthly payments, in twelve equal  
14 installments, with respect to obligations which the city incurs to pay  
15 sums to the retirement system.

16 (B) The New York city health and hospitals corporation shall make  
17 monthly payments, in twelve equal installments, with respect to obli-  
18 gations which it incurs to pay sums to the retirement system.

19 (C) The New York city school construction authority shall make monthly  
20 payments, in twelve equal installments, with respect to obligations  
21 which it incurs to pay sums to the retirement system.

22 (D) The New York city municipal water finance authority shall make  
23 monthly payments, in twelve equal installments, with respect to obli-  
24 gations, if any, which it incurs to pay sums to the retirement system.

25 (E) The New York city water board shall make monthly payments, in  
26 twelve equal installments, with respect to obligations, if any, which it  
27 incurs to pay sums to the retirement system.

28 (F) The New York city transitional finance authority shall make month-  
29 ly payments, in twelve equal installments, with respect to obligations  
30 which it incurs to pay sums to the retirement system.

31 (G) The New York city public housing preservation trust shall make  
32 monthly payments, in twelve equal installments, with respect to obli-  
33 gations which it incurs to pay sums to the retirement system.

34 (H) Where a responsible obligor (as defined in paragraph ten of subdivi-  
35 sion a of section 13-638.2 of this title) is required to make payments  
36 to the retirement system pursuant to applicable provisions of law in  
37 fiscal year two thousand twelve--two thousand thirteen, and in any  
38 fiscal year thereafter, and the provisions of this subdivision or the  
39 provisions of any other applicable law do not otherwise specifically  
40 require such responsible obligor to make such payments by a particular  
41 date or dates during such fiscal year, such responsible obligor shall  
42 make such payments either (i) in total on or before January first of  
43 such fiscal year, or (ii) in twelve equal monthly installments, as  
44 determined by the actuary, with each monthly installment to be paid on  
45 or before the last day of each month.

46 § 4. This act shall take effect on the sixtieth day after it shall  
47 have become a law. Provided that any public officer or employee, includ-  
48 ing but not limited to the mayor of the city of New York and the chief  
49 executive officer of the New York city housing authority, is authorized  
50 to take any action that is necessary for the timely implementation of  
51 this act prior to its effective date.